

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Joe Lyman,
Petitioner-Appellant.

v.

Polk County Board of Review,
Respondent-Appellee.

ORDER

Docket No. 11-77-0422
Parcel No. 020/02962-000-000

On November 23, 2011, the above-captioned appeal came on for consideration before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. The appellant, Joe Lyman, was self-represented and the appeal was considered without hearing. The Polk County Board of Review designated Assistant County Attorneys Ralph Marasco, Jr. and David Hibbard as its representatives. The Appeal Board now having examined the entire record, and being fully advised, finds:

Findings of Fact

Joe Lyman (Lyman) on behalf of Lyman & Lyman Asset Management, LLC (Lyman), owner of commercial property located at 1951 Indianola Avenue, Des Moines, Iowa, appeals from the Polk County Board of Review decision reassessing its property. The real estate was classified commercial for the January 1, 2011, assessment and valued at \$76,400; representing \$29,000 in land value and \$47,400 in improvement value.

Lyman protested to the Board of Review on the ground that the property was not equitably assessed compared to other like properties under Iowa Code section 441.37(1)(a). The Board of Review provided partial relief and reduced the January 1, 2011, total assessment to \$69,500 allocated as follows: \$29,000 in land and \$40,500 in improvement value.

Lyman filed his appeal with this Board on the same ground. Lyman claims \$66,600 is the actual and fair market value. Lyman seeks \$2,900 in relief.

The subject property is a one-story, commercial-retail property with 1560 square feet built in 1940. The property is listed as average quality and normal physical condition. The property also has a 256 square-foot, attached garage. The site consists of 0.248 acres and is also improved by 4500 square feet of concrete paving.

Lyman listed the assessed value of six other commercial properties in the area with the petition. However, he did not make adjustments to make the properties comparable to the subject property for differences such as land and building size, age, or condition. Lyman did not provide any additional evidence to this Board.

The Polk County Board of Review did not supply any additional evidence other than the certified record.

Although Lyman's property is assessed higher than the Board of Review's adjusted median values, he failed to prove inequity. Reviewing all the evidence, which is very limited, we find the preponderance of the evidence does not support Lyman's contention that the subject property is inequitably assessed. Although Lyman provided six other properties as comparables, the record lacked sufficient evidence to actually compare them to the subject property.

Conclusions of Law

The Appeal Board based its decision on the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2011). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determined anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only

those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.* 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).


In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sales prices of the property of comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2). The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a).

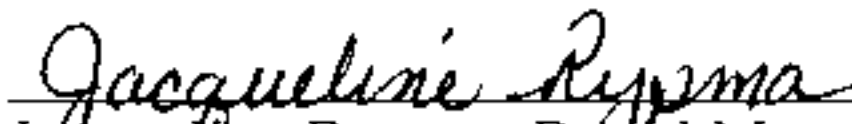
To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shriver*, 257 Iowa 575, 133 N.W.2d 709 (1965). The gist of this test is the ratio difference between assessment and market value, even though Iowa law now requires assessments to be 100% of market value. § 441.21(1). Lyman did not provide sufficient evidence to show the property was inequitably assessed under either test.

Viewing the evidence as a whole, we determine that substantial evidence is lacking to support Lyman's inequity claim as of January 1, 2011. We, therefore, affirm the Lyman property assessment as determined by the Board of Review. The Appeal Board determines that the property assessment value as of January 1, 2011, is \$69,500; representing \$29,000 in land value and \$40,500 in improvement value.

THE APPEAL BOARD ORDERS assessment of the Lyman property located at 1951 Indianola Avenue, Des Moines, Iowa, as determined by the Polk County Board of Review is affirmed.

Dated this 25 day of January 2012.


Richard Stradley, Presiding Officer


Jacqueline Rypma, Board Member


Karen Oberman, Board Member

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Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>1-25</u> , 2012.	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
	<input type="checkbox"/> Certified Mail <input type="checkbox"/> Other
Signature	